

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RIGOBERTO RODRIGUEZ-MACEDO,

Petitioner,

v.

JASON BENNETT,

Respondent.

Case No. C24-266-RSM

ORDER DENYING MOTION FOR
EXTENSION OF TIME TO FILE
OBJECTIONS

This matter comes before the Court on Petitioner's Motion for Extension of Time to File Objections, Dkt. #10.

On February 27, 2024, Petitioner applied to proceed *in forma pauperis* to file a proposed habeas petition pursuant to 28 U.S.C. § 2241. Dkt. #1. On March 28, 2024, United States Magistrate Judge Theresa L. Fricke ordered Petitioner to show cause as to why his petition should not be dismissed. Dkt. #4. Because Petitioner is "in custody pursuant to the judgment of a state court," Petitioner should have filed his habeas petition pursuant to § 2254. 28 U.S.C. §2254(a); *see Krause v. Stewart*, 2019 WL 6732015, at *2 (W.D. Wash. Sept. 13, 2019) ("when a prisoner is in custody pursuant to a state court judgment, § 2254 constitutes his only habeas remedy for any challenge to his detention, regardless of the nature of such a challenge").

1 However, because Petitioner is *pro se*, Judge Fricke liberally interpreted Petitioner's
2 complaint pursuant to § 2254. Dkt. #4 at 2. Under § 2254, "[a] state prisoner seeking habeas
3 corpus relief in federal court must exhaust available state remedies prior to filing a petition in
4 federal court." *Id*; see 28 U.S.C. § 2254. Finding that Petitioner had failed to show that he
5 exhausted state court remedies, Judge Fricke ordered Petitioner to show cause in writing by April
6 11, 2024. Dkt. #4 at 2-4. Because Petitioner did not file a response to said Order, Judge Fricke
7 recommended dismissal of this action without prejudice on April 18, 2024. Dkt. #7. Petitioner
8 had until fourteen (14) days from service of Judge Fricke's Report and Recommendation
9 ("R&R") to file written objections, which he did not file. Dkt. #7. On May 8, 2024, this Court
10 adopted the R&R and dismissed Petitioner's case. Dkt. #9. On May 17, 2024, Petitioner filed
11 his Motion for Extension of Time to File Objections, stating that a cell search, stress of
12 interference, language barriers, legal issues, and issues with Department of Corrections' staff
13 caused him to miss the due date to file objections. Dkt. #10 at 1. Petitioner attached his
14 objections to the R&R. Dkt. #10-1.

15 "A motion for relief from a deadline should, whenever possible, be filed sufficiently in
16 advance of the deadline to allow the court to rule on the motion prior to the deadline," LCR 7(j),
17 and a motion for relief should be granted where "good cause" exists. *See Allstate Indem. Co. v.*
18 *Lindquist*, No. C20-1508JLR, 2022 WL 1443676, at *2 (W.D. Wash. May 6, 2022). When
19 seeking an extension, the good cause standard primarily considers the diligence of the party
20 seeking the extension. *Id*.

21 Though Petitioner offers reasons as to why he failed to file objections by the deadline,
22 Petitioner makes no excuse and completely fails to respond to the Court's Order to Show Cause
23 from a month prior to the R&R. As Judge Fricke reasoned in her R&R and this Court adopted,
24 pursuant to 28 U.S.C. § 2254, as a state prisoner, Petitioner must show that he exhausted all state

1 court remedies before seeking relief in federal court. Petitioner failed to file any response to the
2 Order to Show Cause and does not address the Order in his Motion for Extension of Time. *See*
3 *gen.* Dkt. #10. Even if this Court substantively considered Petitioner's objections to the R&R,
4 Petitioner's objections would fail because he does not show that he exhausted state remedies and
5 primarily objects to the R&R based on improper 28 U.S.C. § 2241 grounds. *Id.* Therefore, the
6 Court finds that Petitioner fails to provide good cause for this Court to grant Petitioner's Motion.

7 Accordingly, having considered the above Motion and the remainder of the record, the
8 Court hereby FINDS and ORDERS that Petitioner's Motion for Extension of Time to File
9 Objections, Dkt. #10, is DENIED.

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11 DATED this 17th day of June, 2024.

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14 RICARDO S. MARTINEZ
15 UNITED STATES DISTRICT JUDGE
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